

► SPECIAL EDITION

123rd Legislative Session

The following legislative summaries are not meant to explain the full complexity of these enacted bills. While we have attempted to include those bills that impact the Maine Insurance Code, this listing is not intended to be all inclusive. Readers interested in complete information on enacted laws may contact the state's Engrossing Division at (207) 287-1324 or (207) 287-1689 to request a copy of the law.

Unless specifically stated in the summary, laws enacted in the Second Regular Session are effective September 20, 2007.

L.D. 101 (P.L. Chapter 153) - *Enhance Screening for **Breast Cancer*** - Clarifies that when the results of an initial screening mammogram are not definitive, an additional radiology procedure recommended by a provider must also be considered a screening mammogram. Applies to all individual and group policies issued or renewed on or after January 1, 2008.

L.D. 138 (P.L. Chapter 40) - *Notice before Cancellation of **Life Insurance Policy for Nonpayment*** - Applies to individual life insurance policies that have been in force for at least one year and are due to be terminated due to non-payment of premium. Requires insurers to provide a written notice of cancellation to the policyholder and any 3rd party designated by the policyholder at least 21 days prior to the expiration of the grace period. Requires the Bureau of Insurance to adopt rules regulating

the cancellation, termination, or lapse of individual life insurance policies to reduce the danger that policyholders who have organic brain disease will lose coverage.

L.D. 154 (P.L. Chapter 17) - *Reinstatement of **Group Life Insurance for Public Employees Returning from Unpaid Military Leave*** - Allows group life insurance to be automatically reinstated (without providing evidence of insurability) for public employees and employees of participating districts who return from unpaid military leave. The request must be made within 31 days of the employee's return to work. If the request is not made within the stated time, the employee must show evidence of insurability and may be underwritten. The law applies retroactively to those on military leave on or after January 1, 2007.

L.D. 415 (P.L. Chapter 32) - *Enhance Consumer Awareness of **Insurance Sales Activity*** - Prohibits a person from making any untrue, deceptive or misleading statements on a business card with regard to conducting insurance business.

(continued)

THE UPDATE

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L.D. 416 (P.L. Chapter 53) - *Protect Senior and the Public from Unfair Health Insurance Sales Practices* - **Emergency effective October 1, 2007** - Prohibits three health insurance solicitation methods by defining them as unfair practices under the insurance code. Prohibits cold lead advertising across all lines of health insurance. Prohibits producers from 'cross-selling' non Medicare insurance products during appointments made to discuss Medicare unless the consumer agrees in advance of the appointment. Prohibits door-to-door sales of Medicare products.

L.D. 429 (P.L. Chapter 93) - *Improve access to HIV Testing* - Replaces the requirement for a patient's written informed consent for an HIV test. Requires that the patient knows and understands that an HIV test is planned. Removes the requirement for pretest counseling and requires that a positive test result must be confidentially given through personal contact.

L.D. 590 (P.L. Chapter 51) - *Requirements Applicable to Insurance Producers* - Eliminates the prelicensing requirements which had been a prerequisite to taking the licensing exam. Expands the scope of the limited producer license for specified insurance that is provided with short-term car rental. Clarifies that nonresident producers with surplus lines authority are not required to maintain a physical office within Maine.

L.D. 840 (P.L. Chapter 125) - *Update the Authority of Maine Employers' Mutual Insurance Company* - Permits Maine Employers' Mutual to offer employers with an average of 100 or fewer employees employment practices liability insurance as an endorsement to workers' compensation coverage. Allows any subsidiary of Maine Employers' Mutual Insurance Company to write coverage in Maine if the coverage is incidental to and written in connection with coverage in the state in which the insured's principal place of business is located.

L.D. 841 (P.L. Chapter 115) - *Extend Health Insurance Coverage for Dependent Children up to 25 Years of Age* - Requires individual and group health insurance policies to offer to continue coverage for a dependent child up to 25 years of age at the option of the policyholders. Applies if the dependent child is unmarried,

has no dependents, is a Maine resident or enrolled as a full-time student and is not provided health coverage under another policy or under a federal or state program.

L.D. 991 (P. L. Chapter 75) - *Clarify the Security Requirements for Self-insurers* - Clarifies that when a surety bond or a letter of credit held as security for a workers' compensation self-insurance program is drawn, the proceeds must be held and disbursed in a manner similar to a cash deposit. Also specifies that all group self-insurance trusts must have cash funding to no less than the 65% confidence level.

L.D. 1083 (P.L. Chapter 74) - *Use of Insurance Credit Scores* - Insurers that use credit insurance scores must, upon the request of the insured but no more often than once every 12 months, obtain an updated credit report and recalculate the insurance score and re-rate the consumer within 30 days of the request. An adjustment of the premium shall be effective on the next anniversary or renewal date.

L.D. 1107 (P.L. Chapter 265) - *Promote Compliance with the Workers' Compensation Laws* - Raises the penalty amount from \$10,000 to \$25,000 for any employer, insurer or 3rd-party administrator for an employer who has engaged in a pattern of questionable workers' compensation claims-handling techniques or has repeated unreasonably contested claims.

L.D. 1208 (P.L. Chapter 278) - *Create Uniformity among Certain Self-insureds* - With approval of the Superintendent of Insurance, allows a multiple employer welfare arrangement to offer a managed care plan that does not adhere to any geographic access requirements on a pilot basis. Prohibits an arrangement from including terms and conditions in the managed care plan that have a detrimental financial impact on a covered person or that require a covered person to travel outside of the United States for health care services. Takes effect January 1, 2008 and is repealed January 1, 2011.

L.D. 1218 (P.L. Chapter 106) - *Limit Retrospective Denials of Previously Paid Health Insurance Claims* - Shortens the time frame when a health insurance carrier may retrospectively deny a health insurance claim submitted by a health care provider from 18 months to 12 months.

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L.D. 1253 (P.L. Chapter 118) - *Protect Consumers from Deceptive Insurance Solicitation* - Prohibits a person from using the name of a financial institution in insurance solicitations in a manner that is untrue, deceptive, or misleading.

L.D. 1259 (P.L. Chapter 313) - *Calculate the Average Weekly Wage in Occupational Disease Cases* - Specifies that the average weekly wage on occupational disease cases must be based on the average wage of the employee on the date of injury.

L.D. 1327 (P.L. Chapter 361) - *Amend Survivors' Benefits under the Workers' Compensation Laws* - Amends the law governing survivors' benefits under the workers' compensation laws. Removes the death benefit credit employers have under current law for indemnity payments made to an injured worker up to the time of death. Applies to claims filed on or after September 20, 2007.

L.D. 1390 (P.L. Chapter 386) - *Special Purpose Reinsurance Vehicles - Emergency effective June 21, 2007* - Revises the requirements for the establishment of special purpose reinsurance vehicles to facilitate the securitization of insurance risks. Allows a special purpose reinsurance vehicle to use protected cells so that a single special purpose reinsurance vehicle can conduct more than one securitization transaction. Also allows the use of funds-withheld arrangements in lieu of a trust, removes the prohibition on a special purpose reinsurance vehicle being affiliated with the ceding insurer, and makes other changes to update the current law to be consistent with similar legislation in other states.

L.D. 1474 (P.L. Chapter 213) - *Increase the Minimum Medical Payments Coverage in Automobile Insurance* - Increases the minimum amount of insurance coverage required for medical payments for automobile liability insurance from \$1,000 to \$2,000. Applies to automobile insurance policies issued or renewed on or after January 1, 2008.

L.D. 1502 (P.L. Chapter 188) - *Clarify and Update Laws Related to Property & Casualty Insurance* - Makes technical corrections to the Property & Casualty laws governing cancellation and nonrenewal of personal auto and homeowners policies. Amends the rate filing law to require the Bureau of Insurance to act on electronic filings

within 30 days.

Makes a number of changes to the cancellation statutes: amends the definition of "renewal" in the casualty insurance laws; adds to the laws governing cancellation of commercial policies covering physical damage the requirement that the loss payee receive notice of cancellation or nonrenewal; amends laws governing property insurance cancellation to be consistent in excluding policies that have been in effect for less than 90 days; adds to personal policies the requirement that a mortgagee and other lien holders receive notice of cancellation.

L.D. 1503 (P.L. Chapter 199) - *Clarify and Update Laws Related to Health Insurance - Emergency effective May 31, 2007* - Amends various provisions of law concerning health insurance to comply with final federal rules published in December 2004 to clarify the federal Health Insurance Portability and Accountability Act of 1996. Provides that a waiting period in a small group health plan includes a period between the time a substantially complete application is filed and the time the coverage takes effect. Requires that second level appeals of health insurance claims be completed within 30 days when the insured has not requested the opportunity to appear in person before authorized representatives of the health carrier.

Clarifies that provisions of the Health Plan Improvement Act applying to carriers offering health plans apply to carriers renewing health plans even if the plans are no longer sold. Clarifies the law relating to participation requirements at renewal of a policy to make it consistent with the law relating to participation requirements at the time a policy is issued. Amends the list of exceptions to the law concerning guaranteed renewal of individual health insurance to include withdrawal from the market. Amends the law concerning continuity of health insurance to clarify that it applies to blanket coverage. Clarifies that a life and health insurer can be licensed to issue health maintenance organization contracts. Clarifies the law requiring notice of group health termination. Clarifies the law regarding permissible limitations on coverage of preexisting conditions in specified disease policies.

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L.D. 1514 (P.L. Chapter 452) *Require **Health Insurance Coverage for Hearing Aids*** - Requires health insurance policies, contracts and certificates issued or renewed on or after January 1, 2008 to provide coverage for hearing aids for persons from birth to 5 years of age, beginning January 1, 2008; from 6 to 13 years of age, beginning January 1, 2009; and from 14 to 18 years of age, beginning January 1, 2010. The hearing loss must be documented by a physician or licensed audiologist. Coverage may be limited to a maximum of \$1,400 per hearing aid for each hearing impaired ear every 36 months.

L.D. 1753 (P.L. Chapter 216) – ***Health Insurance Coverage for Persons under the Influence of Alcohol or Narcotics*** - Repeals the provision in the Maine Insurance Code that allows health insurers to insert a provision in a policy denying liability for loss sustained or contracted as a result of the insured's being intoxicated or under the influence of any narcotic. Does not apply to accidental injury, specified disease, hospital indemnity, dental, vision, disability income, long-term care, Medicare supplement or other limited benefit health insurance.

L.D. 1861 (P.L. Chapter 218) - *Payment of Penalties for Nonpayment of Bills for Medical or Health Care Services under the Maine **Workers' Compensation Act of 1992*** - Provides that penalties for non-payment of bills for medical or health care services in a workers' compensation case are payable to the provider or the employee who paid for them.

L.D. 1862 (P.L. Chapter 350) - *Fairness for Families Regarding **Workers' Compensation Coverage*** - Adds registered domestic partners to the list of individuals who may waive workers' compensation coverage in certain circumstances.

L.D. 1865 (P.L. Chapter 232) - *Amend the **Long-term Care insurance Law*** - Qualifies Maine consumers who purchase long-term care insurance policies for asset-protection measures under the federal Deficit Reduction Act of 2005. Conforms Maine law to national long-term care insurance standards. Prohibits field producer compensation based on the number of policies or certificates sold and imposes training requirements on producers who sell, solicit or negotiate long-term care policies. Licensed persons selling long-term care insurance as of the effective date of the law may continue to sell this insurance but must complete the one-time training course on federal standards by July 1, 2008 and meet ongoing continuing education training to continue selling after that date. Insurers must maintain records and verify that its producers received the required training before the insurer allows them to sell the insurer's products. Verification of the training must be available to the Superintendent on request.

New Law Prohibits Agents from Using Medicare to Cross-Sell

- Using cold lead advertising
- Using appointments made to discuss Medicare products to cross-sell other types of insurance policies
- Selling Medicare products door-to-door.

Second, it prohibits producers who make appointments with seniors to discuss Medicare products from also discussing or selling them other insurance policies, such as life insurance, health insurance, or annuities. Producers may discuss other types of policies at the same appointment only if the consumer requests it, and if the products to be discussed are identified in writing to the consumer at least 48 hours before the appointment.

The legislation was brought forward after the Bureau of Insurance received multiple complaints from seniors about these marketing practices. Some of the problems laid out in these complaints have been experienced by seniors across the nation.

Public Law Chapter 40 requires issuers of individual life insurance policies to allow policyholders to designate a third party to receive notice when the policy is about to terminate for nonpayment of premium. The notice requirement applies to policies that have been in effect for at least one year.

The newly enacted law directs the Superintendent to draft a Rule specifying the requirements for third party notification. The Rule will require notification of all current policyholders that they have the right to designate a third party to receive notice in the event that their policy is about to be canceled for nonpayment of premium. The notice can either be provided as part of the initial or renewal application or as a supplemental form. If the insured does not return the form within 30 days, the insurer may assume that the policyholder does not wish to designate a third party. However, a third party may be designated at a subsequent time if the policyholder chooses.

- the right to designate a third party to receive notice of the cancellation
- the right to change the third party designation *and*
- the ability to reinstate the policy if the insured suffers from organic brain disease and the reason for the cancellation was either the insured's nonpayment of premium or other lapse or default by the insured.

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